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50 CENTS NEWSSTAND

Jury convicts Horace

Sentencing set March 27 in rape of comatose woman

Love for baby eases relatives' grief

By MICHAEL ZEIGLER
STAFF WRITER

Nurse's aide John L. Horace raped and impregnated a comatose woman who was entrusted to his care, jurors said last night.

COMPLETE DETAILS
8A A jury of seven women and five men deliberated four hours before convicting Horace of first-degree rape and first-degree sexual abuse.

Horace will be sentenced March 27 — one year after a son, whom

THE PEOPLE

vs.
JOHN L. HORACE

showed no emotion at the verdict. His lawyer, Monroe County Assistant Public Defender Yolanda Villa, patted his shoulder before he was led back to the county jail, where he is being held without bail.

Prosecutors Jerry M. Solomon and Larry K. Bernstein exulted in

DNA tests overwhelmingly showed was fathered by Horace, was born to the woman.

Horace

the verdict. "I can't wait for the day for John Horace to be sentenced to the maximum sentence that we'll be asking for," Bernstein said.

Prison time is mandatory for Horace, who worked at a Brighton nursing home where the comatose woman was a patient.

State Supreme Court Justice Donald J. Mark could imprison him for a maximum of eight to 25 years and a minimum of two to four years.

The case drew international notice because the victim was believed to be the first woman to conceive and give birth while in a coma. □

By MICHAEL ZEIGLER
STAFF WRITER

In the days after she discovered her comatose daughter was pregnant, a suburban Rochester woman considered ordering an abortion.

She gathered information on children who were conceived through rape and thought about contacting rape victims to get their opinions.

But the woman decided against an abortion when she viewed the videotape of an ultrasound examination of her daughter — and saw

her active grandson-to-be, conceived 22 weeks earlier, kicking his arms and legs in his mother's womb.

"She knew her daughter would have been against an abortion, but that's when she really made up her mind," the comatose woman's aunt said yesterday as she waited for a verdict in the coma-rape trial of John L. Horace.

"Seeing that baby's arms and legs kicking — that's what did it," she said.

The aunt and her father — the

BABY, PAGE 8A

THE JOHN HORACE VERDICT

JURY'S DECISION

DNA data 'critical' in swaying jury

Other evidence was circumstantial

By MICHAEL ZEIGLER
STAFF WRITER

It all came down to DNA. With no direct evidence linking John L. Horace to the rape and impregnation of a comatose nursing home patient, prosecutors depended on the technology of DNA to win a conviction of Horace last night.

State Supreme Court jurors asked for the testimony of several witnesses to be read back but didn't request further explanations of DNA evidence.

That was a sign they accepted DNA test results that showed Horace was 680 million times more likely than anyone else to be the father of a child — known to the public as Baby Doe — born to the comatose woman, said Monroe County Assistant District Attorney Larry K. Bernstein.

At the start of deliberations, the count was seven to five to convict Horace, according to jurors.

"I'm sure the DNA testimony was critical because they had to believe it to get this conviction," Bernstein said as he and Assistant Attorney General Jerry M. Solomon talked to reporters after the verdict was announced at 8:45 p.m.

The convictions of Horace for first-degree rape and first-degree sexual abuse came in Monroe County's fourth criminal trial involving DNA. The others also ended in convictions.

Horace, 53, of Rochester was convicted of raping a 29-year-old woman who was a patient at the

former Westfall Health Care Center in Brighton, where he worked as a certified nursing assistant for five weeks in the summer of 1995.

The woman, who has been in a coma since a 1985 auto accident, was discovered to be pregnant when her fetus was 22 weeks old.

She gave birth to a premature son, who is now living with his maternal grandmother, last March 18.

The prosecution's case was purely circumstantial. No witnesses saw the rape and no direct evidence tied Horace to the rape.

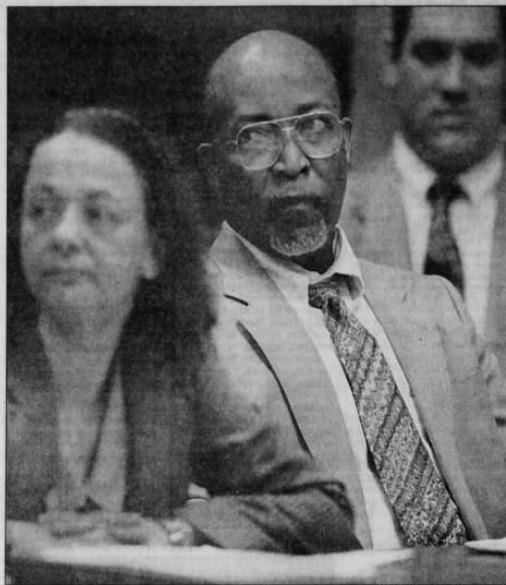
Horace's attorneys, Assistant Public Defenders Yolanda Villa and David R. Juergens, mounted a tenacious defense that challenged population databases used to calculate the odds of Horace's paternity.

They also attempted to question evidence that the child was conceived while Horace provided personal care to the woman and had nearly unrestricted access to her.

But in her summation to jurors, Villa entered on a key element jurors had to determine to convict Horace of rape — that he had sexual intercourse with the physically helpless woman.

Citing testimony that the woman could have become pregnant through artificial insemination or by semen left outside her body, Villa reminded jurors that they must acquit Horace if they found no evidence of intercourse.

"Whoever fathered Baby Doe is certainly deserving of moral condemnation — yours, the court's, the



SHAWN DOWD staff photographer

The verdict is heard John Horace looks at the jury as members are polled immediately after their announcement of guilty verdicts on rape and sexual abuse charges yesterday in state Supreme Court.

public's, mine. Whatever act resulted in Baby Doe's conception is deserving of moral condemnation.

"But this is not the forum for that," she said.

In his summation, Solomon strongly defended the DNA tests and countered that it wasn't reasonable to assume that the woman be-

came pregnant in any other way but sexual intercourse.

He painted Horace as a remorseless predator, taking advantage of the woman as she lay helpless in her bed, unable to communicate.

Holding up a photo of the woman and her child for jurors to see, Solomon seemed to choke back a

tear as he described her plight and said she was subjected to acts that were "depraved, abhorrent, repulsive and condemnable."

"Because of Jane Doe's physical condition, she can't communicate with you any more than if she could communicate with you from this photograph," Solomon said. J

THE JURY

Jurors say rape count debated

By GREG LIVADAS
STAFF WRITER

Jurors who convicted John Horace of raping a comatose woman never questioned whether Horace fathered the woman's child but debated whether the woman was raped.

"There was never any doubt in any of the jurors' minds he fathered the child and committed first-degree sexual abuse," said Peter D'Ambrosio, a juror from Sweden.

Beginning their deliberations, the count was seven to five to convict Horace of the charges, according to jurors.

"We talked a little about reasonable doubt," said one juror, 37, who asked that his name not be published. "The DNA had him locked in. We decided almost going in that statistically, he was the father."

D'Ambrosio said he would have been "on the fence" had the defense not presented any witnesses. Ironically, a defense witness some jurors called "a hired gun" swayed some of the jurors to the prosecution's side.

Two jurors said defense witness William Shields, a Syracuse biologist who attempted to cast doubt on the DNA statistics, hurt Horace.

"He was totally not credible," D'Ambrosio said. "To me, he was a head hunter out to make some money."

The one juror who asked to remain anonymous noted it was difficult to think about the victim in the case.

"She can't cry out, she can't finger the attacker," he said. "The toughest part was just to sit there and try to imagine how it was done." J

VACCO REACTS

Case will figure in legislative reform for nursing homes

By STEVE ORR
STAFF WRITER

New York Attorney General Dennis C. Vacco vowed last night to use John Horace's conviction as an example to help tighten state laws governing nursing home workers.

"The ramifications of this verdict are enormous. This will send a clarion call to the (state) Legislature that we have to enact some meaningful reforms," said Vacco, who flew to Rochester from New York City yesterday to hear the jury announce its verdict.

Vacco has campaigned for tougher standards for nursing home employees since he became attorney general in January 1995.

Vacco has proposed creating a new felony-level crime, "patient abuse."

He also proposed that nursing homes be allowed to check applicants' criminal records and that all employees be fingerprinted.

"We ought to know more about the people we're entrusting our loved ones to," Vacco said. J

THE DOE FAMILY

Baby's relatives say love for infant boy has helped ease their grief

FROM PAGE 1A

great-aunt and great-grandfather of a son born to the comatose woman — spoke yesterday in the first interview granted by the comatose woman's family since her pregnancy was discovered 14 months ago.

As they waited for a verdict in Horace's trial, their thoughts were with the baby conceived in the rape, who underwent heart surgery yesterday in a Midwestern city.

The baby, known in court as Baby Doe, was born with a congenital heart defect. He had his first surgery in the summer of 1996 when he was only a few months old. Yesterday's surgery was a follow-up.

The boy will need another operation when he's 5, but his prognosis is excellent, his relatives said.

"We just want to get through the next five years," his great-aunt said. "We'll worry later about what happens after that."

In a wide-ranging interview, the

child's relatives spoke with bitterness about the discovery that their relative, who has been in a coma since a 1985 auto accident, was impregnated while a patient in a Brighton nursing home where Horace worked as a nurse's aide.

"We just could not believe it," the child's great-grandfather said. "After all she went through, after all the family went through. And then this."

"We had always held out hope that she would wake up," the great-aunt said.

"We'd have her over to the house in her wheelchair at Christmas and Thanksgiving, and we'd carry on conversations with her because we thought she could hear what we were saying."

"When she was agitated at the nursing home, the nurses would calm her down by playing a tape of her mother reading her favorite story to her. It's *The Velveteen Rabbit*, and it always worked."

"Then after the pregnancy was

discovered the doctors told us that her coma was irreversible, that there was no hope. I think that's what hurt most of all."

Shortly after the baby was born March 18, the great-grandfather and his wife visited the mother in her room at Strong Memorial Hospital.

While they were there, an obstetrical nurse brought in the 2-pound, 11-ounce baby, wrapped in a receiving blanket and wearing a blue cap on his head, and cradled him in his mother's arms.

Although physicians testified at Horace's trial that the mother probably had no awareness of her child's birth, the great-grandfather believes otherwise.

"The nurse said it was so he could bond with his mother," the grand-grandfather said. "She put him in her arms, and (the mother) started patting him with one hand, just moving it back and forth, and back and forth."

"I said, 'She doesn't need to bond

with him. I think she already has.'"

The bonding has continued, but the child's mother now seems to have no awareness of her son, the great-aunt said.

"In the first days, he would cuddle up to her and place his head on her chest," she said. "Now if you sit him on her, she'll yawn and he'll start laughing."

The past 14 months have been difficult for the family, partly because of criticism the family bore from pro-choice advocates who said they believed the woman should have an abortion.

"That was a decision (the woman's mother) had to make, and nobody else," the great-aunt said. "I think it was the comments of the pro-choice people that hurt her more than anything."

The family has guarded its privacy and summarily rejected potentially lucrative offers to tell their story.

"I know the media has to do their job, but it's like they're feeding off

people's grief," the child's great-aunt said. "They've turned into a world of gawkers."

"This is a grief thing with us. I think it always will be."

They know that someday they'll have to tell the child of his background.

They haven't yet figured out how to do it.

"First things first," the great-aunt said. "The most important thing is that he knows he has a family who loves him, and who accepts him."

That love, she said, extends to his mother, known to the world as Jane Doe, but who is frequently referred to in the media — including this newspaper — as "a comatose woman."

"I wish you people could come up with a better name," the great-aunt said.

"She isn't a nameless, faceless woman who got pregnant. She's a person to us. Someone we have loved. Someone we always will." J